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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,941	05/22/2001	Mark Flood	01AB077	9740

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EXAMINER	
SHIN, KYUNG H	
ART UNIT	**PAPER NUMBER**
2143	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/862,941	**Applicant(s)** FLOOD, MARK	
	Examiner Kyung H. Shin	**Art Unit** 2143	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *26 October 2005*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-52*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Response to Remarks on 10/26/05

1.1 The Initial Office Action dated October 10, 2004 states that the Voth (6,199,169) prior art discloses the capability to transmit time synchronization information and non synchronization data over a network environment. As a further disclosure, the Voth (6,199,169) and Kuribayashi (6,775,246) prior art combination discloses the capability to transmit time synchronization information and non synchronization data over an interconnected network. (see Kuribayashi col. 8, lines 29-34; col. 9, lines 2-4: clock signals (i.e. time synchronization information) and transmitting and receiving data (i.e. non time synchronization data))

1.2 Applicant argues that the referenced prior art does not disclose " ... structural interrelationship with other components: 1) ... a processor interface ..., 2) a synchronization apparatus, 3) a host processor, 4) a network in the control system, and 5) a second controller ... " (see Remarks Page 3, Lines 14-16)

The Voth (6,199,169) prior art discloses a structural relationship analogous to the invention's claim limitations. A UNIX system utilizing standard well known in the art features enables the capabilities of the invention's time synchronization system. A multi-processor UNIX type system is utilized as one component of the time synchronization system. A dedicated processor to perform time synchronization functions (i.e. synchronization apparatus) and a second (i.e. host) processor performs other system functions. An interface is enabled for inter processor communications between the two processor units (i.e. processor interface, between synchronization processor and host processor). The time synchronization system is configured with two network communications adapters, one network adapters utilized for time synchronization information communications and the other network adapter utilized for other system type communications (i.e. a network). A second UNIX type time synchronization system enabled as the second controller.

1.3 Applicant argues that the referenced prior art does not disclose " ... synchronization circuit is configurable by the host processor to operate as one of a synchronization master and a synchronization slave ... " (see Remarks Page 5, Lines 20-23)

The Voth (6,199,169) prior art discloses that one node assumes master status (see Voth col. 4, lines 37-38: master node) and is configured to perform the master node time synchronization type functions. (see Voth col. 10, lines 44-45; col. 10, lines 53-55; col. 13, lines 61-62; col. 14, lines 9-10: configuration of master node)

1.4 Applicant argues that the referenced prior art does not disclose " ... Voth is directed toward non-analogous art ... " (see Remarks Page 7, Lines 7-8) ; " ... Voth relates to non-analogous art ... " (see Remarks Page 8, Line 23)

The Voth (6,199,169) prior art discloses a time synchronization system. (see Voth col. 2, lines 51-53: time synchronization system), the Rasmussen (6,449,732) prior art discloses a time synchronization system (see Rasmussen col. 4, lines 57-59; col. 12, lines 31-35), and the Kuribayashi (6,775,246) prior art discloses a time synchronization system. The applicant's invention discloses a time synchronization system. Therefore, the Voth (6,199,169) prior art is analogous art and can be utilized to disclose the invention's claims limitations and is legitimate prior art.

1.5 Applicant argues that the referenced prior art does not disclose " ... requires a very high speed network ... " (see Remarks Page 7, Line 21) ; " ... not installed with full-service operating systems intended for commercial user ... " (see Remarks Page 8, Line 15)

The Voth (6,199,169) prior art discloses a time synchronization system utilizing UNIX type system. The dedicated processor utilized within the time synchronization system is loaded only with the required operating system features. The communications network utilized is a very high speed capable network and the communications speeds in the communications network are within the invention's specification. Therefore, these features (i.e. high speed communications, operating system loaded only with required features) make the prior art disclosure of the invention possible.

1.6 In reply to an obviousness rejection under 35 U.S.C. § 103, applicant argues that the secondary and primary reference combination is not allowed due to nonobviousness.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Furthermore, in response to applicant's arguments against the reference individually, one cannot show nonobviousness by attacking references individually where rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Therefore, the rejection of claims 1-52 is proper and maintained herein.

11/18/2005 KHS

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER